



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
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Commissioner

November 7, 2016

Jennifer LaPoma
U.S. Environmental Protection Agency (USEPA)
Region II Headquarters
290 Broadway, 19th Floor East
New York, NY 10007-1866

Re: Passaic River Study Area – 17 Mile Project
Newark City, Essex
SRP PI# 332799
Activity Number Reference: RPC030001

Dear Ms. LaPoma:

The New Jersey Department of Environmental Protection (Department) has completed a review of the Response to Comment (RTC) document dated September 26, 2016 submitted by the Cooperating Parties Group (CPG) in response to regulatory agency comments (USEPA) on the 2nd Draft Baseline Human Health Risk Assessment, December 18, 2015. The subject document response to the USEPA letter on this topic dated August 25, 2016. The Department's comments on this submittal are provided below.

Comments

While the CPG accepted many of USEPA's requested changes, there are numerous comments that were not adequately addressed and will need further resolution. The overall effect of CPG comments places doubt on the risk assessment process, the toxicities, and makes the uncertainties and background into a greater issue than necessary.

Responses acceptable to the Department

The Department has determined that the responses to Comments # 3, 5, 7, 8 through 13; 16, 17, 18, 21 through 23; 28 through 40; 43 through 52; 54 through 85; 91 through 95; 98, 101 through 104, 106; 108, 111 through 114 are acceptable.

Responses unacceptable to the Department

Comments 1 and 2: These are general comments dealing with the overall "tone" of the risk assessment. The Department disagrees with CPG's statement "The CPG disagrees with the Region's contention that December 2015 version of the BHHRA did not appropriately address the Region's previous comments." Since individual statements comprise the tone, the Department has evaluated each statement/comment separately. It is found that "collectively" many statements (identified for revision per USEPA comments) if left unrevised, may obscure key risk assessment conclusions. For example, regardless of the fact that risk assessment performed by both the USEPA and CPG arrived at similar risk estimates, the *presentation*

of conditions/information associated with development of these risk estimates could inappropriately (negatively) influence their use in the project's remedial decision-making process. Comment 2 does appear to state that CPG will correct the HHRA as per USEPA's specific Comment 2.

Comment 4: NJDEP disagrees with CPG. All RAGS D tables and text tables need to be correct and accurate.

Comment 6: NJDEP disagrees with CPG in that the length of the Uncertainty Section did not enhance the Risk Assessment but rather added to the general tone casting doubt on the validity of Risk Assessment in general and this Risk Assessment in particular.

Individual corrections are listed in Comments # 70, 78, 84 through 90 and 97.

Comment 14: CPG rejects the proposal for replacement of "conservative" with "health-protective" throughout the document and does not agree to this wholesale change. CPG states the use of the word conservative will be reviewed and, if appropriate, removed or replaced with health-protective on a case-by case basis. This could result in unnecessary additional review time for both NJDEP and USEPA. NJDEP defers to USEPA on this proposal.

Comment 15: CPG's response is acceptable as long as the second paragraph of their response is not included in the HHRA.

Comment 19: The last portion of the last sentence in Attachment A redline/strikeout version is unacceptable (underlined portion): "... assumptions lead to uncertainty, it is important to note that the assumptions and approaches used in this BHHRA are health protective, such that risks/hazards are more likely to be overestimated than underestimated (USEPA 1992e, 2005b). This statement should end with "... are health protective."

These health-protective methods are used for balancing against other factors which are not yet (or easily), accounted for in CERCLA risk assessments (i.e., individual sensitivities, chemical synergism, etc.).

Comment 25: Acceptable providing the second sentence is not in revised HHRA.

Comment 41: NJDEP disagrees with CPG and reiterates that a discussion of HEAST is inappropriate.

Comment 42: NJDEP disagrees with CPG. All RAGS D tables and text tables need to be correct and accurate.

Comment 53: NJDEP disagrees with CPG. There is altogether too much discussion of background, whether it is contaminated soil or methodology in assessing cancer risks. It dilutes the significance of site specific findings.

Comment 86: NJDEP disagrees with CPG. The proposed wording by CPG on dioxin again dilutes the fact that there is no decision one way or another on dioxin bioavailability.

Comment 90: NJDEP generally disagrees with CPG.

Comment 97: NJDEP generally disagrees with CPG. Specifically, the phrase "but within the range of plausible outcomes" must be included. Other modifications by CPG are not acceptable.

Comment 99: NJDEP generally disagrees with CPG. "Very conservative" must be changed to "health protective".

Comment 100: See Comment 2.

Comment 105: The last sentence, adding "such that risks/hazards are more likely to be overestimated than underestimated (USEPA 1992e, 2005b)" is unacceptable.

Comment 107: Not acceptable. All RAGS D tables and text tables need to be correct and accurate.

Comment 109: NJDEP disagrees with CPG. All RAGS D tables and text tables need to be correct and accurate.

Comment 110: NJDEP disagrees with CPG. All RAGS D tables and text tables need to be correct and accurate.

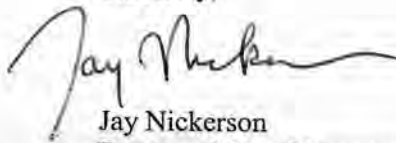
NJDEP defers to USEPA on the acceptability of the following comments

Comments 20, 24, 27, 87, 88, 89 and 96.

Please incorporate these comments into the letter that the USEPA will be sending to CPG.

Thank you for your cooperation in this matter. If you have any questions, please call me at (609) 633-1448, or email at Jay.Nickerson@dep.nj.gov.

Sincerely,



Jay Nickerson
Bureau of Case Management
Site Remediation and Waste Management Program
New Jersey Department of Environmental Protection

cc. Anne Hayton, BEERA, NJDEP
Swati Toppin, BEERA, NJDEP
Reyhan Mehran, NOAA
Jay Field, NOAA
Cathy Marion, USFWS